

Service Date: August 31, 2000

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER of the Application)	UTILITY DIVISION
by ENERGY NORTHWEST, INC.)	
for Authority to Establish)	Docket No. D2000.7.103
Increased Electric Service Rates.)	Order No. 6259b

PROTECTIVE ORDER

Introduction and Background

1. On August 18, 2000, Applicant Energy Northwest, Inc., (ENI), along with its affiliated parent Flathead Electric Cooperative, Inc., (jointly, ENI) filed with the Montana Public Service Commission (Commission) a motion for protective order and a proposed protective order in this docket. ENI stated that supporting documentation for the combined cost of service study referred to in its July 17, 2000, Application and for its Request for Waiver of Cost of Service Study submitted on August 9, 2000, contain proprietary and sensitive information originating from both ENI and its parent. ENI maintained that the proprietary information includes customer load information, pricing information, financial and business information, and business strategy information which could be used to the economic detriment of ENI.

2. The Commission's new rules on protective orders became effective on July 28, 2000 (ARM 38.2.5001 – 5030). Likely because of unawareness of the new protective order procedures, ENI did not file for a protective order under the new rules. However, the Commission has changed its protective order regime to conform to the new rules. This change will generally not affect the substance of providing protection for confidential information, but will result in language and process changes. Most terms of protective orders will be included by reference to the rules in ARM 38.2.5001 -- 5030.

3. Therefore, the Commission will consider ENI's motion for protective order in this docket as if it had been made pursuant to ARM 38.2.5001 – 5030. To the extent ENI's motion is not consistent with the rules, the rules are waived in this instance. For example, ARM 38.5.5007(3)(b) requires the movant to identify "item-by-item or by category of like items" the information for which protection is sought. ENI did not comply with this rule, but simply asked that the order cover all information in the docket, in addition to some generally identified

information, that may need protection. The Commission waives compliance with ARM 38.5.5007(3)(b) and, for ENI, ARM 38.2.5010 (relating to the protection of additional information) in this docket, but such waiver does not mean the Commission will routinely waive these requirements in the future.

4. Also, it should be noted that the term "Exhibit 'A'," referring to the document signed by persons entitled to receive confidential information, will not be used under the new rules. Rather, persons receiving confidential information will sign "nondisclosure agreements" pursuant to ARM 38.2.5012. A nondisclosure agreement is attached to this order.

ORDER

5. The Commission determines that from time to time ENI may be required to furnish information in this docket that could be confidential and subject to protection from public disclosure pursuant to § 69-3-105, MCA, and Article II, § 10 of the Montana Constitution. Therefore, the Commission grants ENI's motion for a protective order and orders that information submitted by ENI in accordance with this order be treated as "confidential information" under the terms of this order and Commission protective order rules, ARM 38.2.5001 – 5030. ARM 38.2.5001 – 5030 are attached for the convenience of the parties. Parties other than ENI who need to have information protected should comply with ARM 38.2.5010.

DONE AND DATED this 30th day of August, 2000, by a vote of 5 to 0

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chair

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

GARY FELAND, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Reconsideration of this order is not allowed. ARM 38.2.5008(2); ARM 38.2.4806(7). A challenge to this order may be made pursuant to ARM 38.2.5008(3).

Nondisclosure Agreement

ARM 38.2.5012

Docket No. D2000.7.103, Order No. 6259b
Order Action Date August 30, 2000

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive. I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

Typed or Printed Name

Signature

Date of Signature

Business Address:

Employer

Party Represented